

United States v. Smith and Ogden

Federal Trials and Great Debates
in United States History

Case Summary:

- William Stephens Smith and Samuel Ogden were prosecuted for violating American after they helped to plan a mission to liberate modern-day Venezuela from Spain.
- The defendants claimed that the prosecution was politically motivated and that President Thomas Jefferson and Secretary of State James Madison had approved the mission before turning on Smith and Ogden.
- The trials were controversial, with many claiming it represented a political conflict between Jeffersonians and opposing Federalists.
- Juries acquitted the defendants in separate trials despite a damning set of instructions from federal judge Matthias Tallmadge.

History of the Case:

In 1806, Colonel William Stephens Smith, a Revolutionary War hero and the son-in-law of former president John Adams, was prosecuted in federal court for violating the Neutrality Act of 1794. This statute made it a federal crime to aid military operations against nations with which the United States was “at peace.” Prosecutors alleged that Smith helped to plan a daring, but unsuccessful, military expedition led by revolutionary Francisco de Miranda. Miranda’s mission aimed to liberate modern-day Venezuela from Spanish rule. New York merchant Samuel Ogden was prosecuted in a related trial for lending Miranda the mission’s flagship and helping to man and equip it for military action.

There was little doubt that Smith and Ogden had helped to set Miranda’s expedition in motion, but the defendants claimed their actions were not criminal. The defense argued that America was not genuinely “at peace” with the Spanish Empire when Smith and Ogden helped prepare the expedition. Although Congress had not declared war on Spain, tensions ran high amid a rash of maritime skirmishes. More controversially, the defendants also claimed that President Thomas Jefferson and Secretary of State James Madison had approved the mission and changed their tune only after Miranda’s expedition became a diplomatic embarrassment as relationships with Spain improved over the course of 1806. Defense attorneys subpoenaed Madison and several other high-ranking officials, but Jefferson ordered them not to comply on the seemingly tenuous ground that attending court would interfere with their duties.

The defense’s arguments in the two trials implicated several significant questions: What power did the courts have over senior officials in other branches of government? Could the president of the United States authorize others to break federal laws? What role did the courts have in determining diplomatic questions? To what extent could federal juries “nullify” or disregard the legal determinations of judges?

Two judges presided over the early proceedings in the cases, which helped to resolve some of these questions. Supreme Court Justice William Paterson and District Judge Matthias Tallmadge sat together on the U.S. Circuit Court for the District of New York. Justice Paterson spoke for both judges in ruling that the trials should continue in the absence of Madison and the other officials called as witnesses. Justice Paterson reasoned that even the president and secretary of state could not empower others to break the law. As such, it was immaterial whether Jefferson and Madison had approved of the mission; that question could have no bearing on whether Smith and Ogden violated the Neutrality Act. However, Justice Paterson disagreed with Judge Tallmadge on the related question of whether the court should punish Madison and the other absent witnesses for their refusal to obey subpoenas. Although it is not known which judge took which position, most reports at the time deduced that Justice Paterson believed the officials should have been punished. Paterson was in ill health and withdrew from the cases after ruling on these

pretrial matters; Tallmadge presided over the two trials and took no further action against the absent witnesses.

At Smith's trial, the government claimed that it need only show that the defendants helped to instigate a military action against a Spanish colony and that Congress had not declared war on Spain. The defense attorneys, however, argued that the case was more complicated. They argued that the executive branch had the power to recognize whether a state of war existed in fact, even if Congress had the exclusive power to declare war in legal terms. They argued that Jefferson and Madison had done this by authorizing Miranda and Smith to launch the mission after Spain had repeatedly violated the peace with the United States by capturing American ships at sea.

Judge Tallmadge largely excluded evidence of diplomatic tensions between Spain and America from both trials. At the conclusion of the trials, he summed up the evidence against the defendants in strong terms and warned that an acquittal might even lead to war. Lead defense attorney Cadwallader Colden urged the juries to disregard Judge Tallmadge's rulings and acquit the defendants anyway. This process, known as jury nullification, has become disfavored in modern trial practice, but it was considered an important power of early American juries. Apparently believing the defense's account that Smith and Ogden thought their actions were both lawful and approved by the administration in Washington, the juries in both cases found the defendants not guilty.

Some viewed the outcome of the trials as an embarrassment for the Jefferson Administration. The politics of the early 1800s were often dominated by bitter feuds between Jeffersonians and Federalists. Given Smith's close affiliations with leading Federalists including Adams, some claimed that the trials were politically motivated. Others criticized the involvement of Pierpont Edwards, a federal judge from Connecticut, in the team of prosecuting attorneys. Some commentators, however, believed that the trials showed the dangers of jury nullification, claiming that Smith and Ogden had prevailed by tarnishing the reputations of leading American statesmen and inviting a sympathetic jury to acquit based on conspiracy theories and rumors, rather than evidence. Indeed, even Adams later privately criticized Smith for casting aspersions on Jefferson and Madison during the trials.

Legal Issues:

- Could and should the court compel senior executive branch officers to testify at the trials?
- Could the president authorize others to violate federal laws?
- Were Smith and Ogden guilty of violating American neutrality?

Questions for Discussion:

- Justice Paterson ruled that the alleged government approval of Miranda's mission was no defense for Smith and Ogden. Would the same be true if Jefferson or Madison had *ordered* Smith and Ogden to aid the expedition? Why or why not?
- Were the *Smith* and *Ogden* juries right to disregard Judge Tallmadge's rulings on the law governing the trials? What are the advantages and disadvantages of allowing this sort of jury nullification in criminal trials?
- Congress has not declared war on a foreign power since World War II. Wars since that time have generally taken place under less formal authorizations for the president to use military force or to undertake peacekeeping missions. Would an American who attacked nations such as Iraq or North Vietnam during their conflicts with America violate the principle of neutrality? What might your answer suggest about the concepts of neutrality and peace debated in the *Smith* and *Ogden* cases?